

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ENZON PHARMACEUTICALS, INC.)	
)	
)	
Plaintiffs,)	
)	
v.)	C. A. No. 04-1285-GMS
)	
PHOENIX PHARMACOLOGICS, INC)	
)	
)	
Defendants.)	
)	

DEFENDANT’S ANSWER TO PLAINTIFF’S AMENDED COMPLAINT

Defendant Phoenix Pharmacologics, Inc. (“Phoenix”), by and through its undersigned counsel, hereby answer Plaintiff’s Complaint, in accordance with the numbered paragraphs thereof, as follows:

Nature of the Action

1. Phoenix admits that Enzon has styled its Complaint as an action pursuant to 35 U.S.C. § 256.
2. Denied.
3. Denied.
4. Denied.
5. Denied.

Jurisdiction and Venue

6. Admitted
7. Admitted.

The Parties

8. Phoenix is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 8 of the Complaint and, on that basis, denies the same.

9. Denied.

Allegations Applicable to Both Counts

10. Denied to the extent that the Agreement and General Release attached as Exhibit C to the Complaint states that Dr. Clark's employment by Enzon terminated on April 22, 1996.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

15. Admitted.

16. Admitted.

17. Phoenix is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 17 of the Complaint and, on that basis, denies the same.

Count I

18. Phoenix restates its answers to Allegations 1-17 as if set forth herein.

19. Denied.

20. Phoenix is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 20 of the Complaint and, on that basis, denies the same.

21. Phoenix is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 21 of the Complaint and, on that basis, denies the same.

22. Phoenix is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 22 of the Complaint and, on that basis, denies the same.

Count II

23. Phoenix restates its answers to Allegations 1-17 as if set forth herein.

24. Denied.

25. Denied.

Count III

26. Phoenix restates its answers to Allegations 1-25 as if set forth herein.

27. Denied.

Defenses

Phoenix avers the following defenses, without prejudice to its right to modify or withdraw any defense and/or to assert additional defenses:

First Defense

Count I is barred under the doctrines of laches and/or equitable estoppel.

Second Defense

Count II is barred under the doctrines of laches and/or equitable estoppel.

Third Defense

Count III is barred under the doctrines of waiver, laches and/or equitable estoppel.

Fourth Defense

Count III is barred by application of a statute of limitations.

Fifth Defense

Count III fails to state a claim upon which relief can be granted.

July 18, 2005

THE BAYARD FIRM

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CERTIFICATE OF SERVICE

The undersigned counsel certifies that, on July 18, 2005, he electronically filed the foregoing document with the Clerk of the Court using CM/ECF, which will send automatic notification of the filing to the following:

Josy W. Ingersoll, Esquire
John W. Shaw, Esquire
Glenn C. Mandalas, Esquire
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The undersigned counsel further certifies that copies of the foregoing document were sent by email and hand to the above local counsel and by email and U.S. mail to the following non-registered participants:

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/s/ Richard D. Kirk (rk0922)_____